

PATENT COOPERATION TREATY

From the
INTERNATIONAL SEARCHING AUTHORITY

REC'D 12 OCT 2005

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To:

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22/12

WRITTEN OPINION OF THE INTERNATIONAL SEARCHING AUTHORITY (PCT Rule 43bis.1)

Date of mailing
(day/month/year) see form PCT/ISA/210 (second sheet)

Applicant's or agent's file reference
see form PCT/ISA/220

FOR FURTHER ACTION

See paragraph 2 below

International application No.
PCT/EP2005/006361

International filing date (day/month/year)
14.06.2005

Priority date (day/month/year)
15.06.2004

International Patent Classification (IPC) or both national classification and IPC
H04Q7/38, H04L12/56, H04L29/08

Applicant
MATSUSHITA ELECTRIC INDUSTRIAL CO., LTD.

1. This opinion contains indications relating to the following items:

- Box No. I Basis of the opinion
- Box No. II Priority
- Box No. III Non-establishment of opinion with regard to novelty, inventive step and industrial applicability
- Box No. IV Lack of unity of invention
- Box No. V Reasoned statement under Rule 43bis.1(a)(i) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement
- Box No. VI Certain documents cited
- Box No. VII Certain defects in the international application
- Box No. VIII Certain observations on the international application

2. FURTHER ACTION

If a demand for International preliminary examination is made, this opinion will usually be considered to be a written opinion of the International Preliminary Examining Authority ("IPEA"). However, this does not apply where the applicant chooses an Authority other than this one to be the IPEA and the chosen IPEA has notified the International Bureau under Rule 66.1b/s(b) that written opinions of this International Searching Authority will not be so considered.

If this opinion is, as provided above, considered to be a written opinion of the IPEA, the applicant is invited to submit to the IPEA a written reply together, where appropriate, with amendments, before the expiration of three months from the date of mailing of Form PCT/ISA/220 or before the expiration of 22 months from the priority date, whichever expires later.

For further options, see Form PCT/ISA/220.

3. For further details, see notes to Form PCT/ISA/220.

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**WRITTEN OPINION OF THE
INTERNATIONAL SEARCHING AUTHORITY**

International application No.
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Box No. I Basis of the opinion

1. With regard to the language, this opinion has been established on the basis of the international application in the language in which it was filed, unless otherwise indicated under this item.
 - This opinion has been established on the basis of a translation from the original language into the following language , which is the language of a translation furnished for the purposes of international search (under Rules 12.3 and 23.1(b)).
2. With regard to any nucleotide and/or amino acid sequence disclosed in the international application and necessary to the claimed invention, this opinion has been established on the basis of:
 - a. type of material:
 - a sequence listing
 - table(s) related to the sequence listing
 - b. format of material:
 - in written format
 - in computer readable form
 - c. time of filing/furnishing:
 - contained in the international application as filed.
 - filed together with the international application in computer readable form.
 - furnished subsequently to this Authority for the purposes of search.
3. In addition, in the case that more than one version or copy of a sequence listing and/or table relating thereto has been filed or furnished, the required statements that the information in the subsequent or additional copies is identical to that in the application as filed or does not go beyond the application as filed, as appropriate, were furnished.
4. Additional comments:

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**Box No. V Reasoned statement under Rule 43bis.1(a)(i) with regard to novelty, inventive step or
industrial applicability; citations and explanations supporting such statement**

1. Statement

Novelty (N)	Yes: Claims	7-10,16-24,27,28,31-41
	No: Claims	1-6,11-15,25,26,29,30
Inventive step (IS)	Yes: Claims	
	No: Claims	1-41
Industrial applicability (IA)	Yes: Claims	1-41
	No: Claims	

2. Citations and explanations

see separate sheet

**WRITTEN OPINION OF THE
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AUTHORITY (SEPARATE SHEET)**

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Re Item V

Reasoned statement with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement

- 1 The following documents (D1-D4) are referred to in this communication; the numbering will be adhered to in the rest of the procedure:
 - D1: US 2002/122400 A1 (LI PENG ET AL) 5 September 2002 (2002-09-05)
 - D2: US-B-6 463 0711 (WANG PETER SI-SHENG ET AL) 8 October 2002 (2002-10-08)
 - D3: US 2002/085531 A1 (WASEL JOSEF ET AL) 4 July 2002 (2002-07-04)
 - D4: "3rd Generation Partnership Project; Technical Specification Group Radio Access Network; Radio Interface Protocol Architecture (3G TS 25.301 version 3.3.0)" 3RD GENERATION PARTNERSHIP PROJECT; TECHNICAL SPECIFICATION GROUP RADIO ACCESS NETWORK; RADIO INTERFACE PROTOCOL ARCHITECTURE (3G TS 25.301 VERSION 3.3.0), December 1999 (1999-12), XP002164238
- 2 The application does not meet the requirements of Article 6 PCT, because claims 1,17,25,27,29,31,33,38,40 are not clear.
 - 2.1 Although claims 1,17 and 33; claims 25,27 and 38 and claims 29,31 and 40 have been drafted as separate independent claims, they appear to relate effectively to the same subject-matter and to differ from each other only with regard to the definition of the subject-matter for which protection is sought, namely: a **method for transmitting data from a mobile terminal to a radio access network; a mobile terminal; and to a computer readable medium for storing instructions**, or in respect to the terminology used for the features of that subject-matter. The aforementioned claims therefore lack conciseness. Moreover, lack of clarity as a whole arises, since the plurality of independent claims makes it difficult to determine the matter for which protection is sought, and places an undue burden on others trying to establish the extent of the protection.
 - 2.2 In particular, a single independent claim in each category would appear appropriate,

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which independent claims could be followed by dependent claims covering features merely optional.

3 The present application does not meet the criteria of Article 33(1) PCT, because the subject-matter of claims 1-6,11-15,25,26,29,30 is not new in the sense of Article 33(2) PCT.

3.1 Using the wording of claim 1, document D1 discloses (the references in parentheses applying to this document):

"A method for transmitting data from a mobile terminal to a radio access network of a mobile communication system (paragraph [0028]), the mobile terminal comprising a medium access control entity (paragraph [0030]), the method comprising the steps of:
establishing a radio bearer between the mobile terminal and the radio access network for transmitting said data via a transport channel (paragraph [0028]),
assigning to each of a plurality of different scheduling modes usable by the medium access control entity a priority for the radio bearer (paragraphs [0029]-[0031]), and
transmitting said data based on the priority assigned to the respective scheduling mode used by the medium access control entity for the radio bearer (paragraphs [0030],[0031])".

The subject-matter of claim 1 is therefore not new (Article 33(1) and (2) PCT).

3.2 It should be noted that the above analysis could also have been based on document D3 (paragraphs [0010],[0011],[0025]-[0038],[0049]-[0053]). The subject-matter of claim 1 is therefore not new (Article 33(1) and (2) PCT).

3.3 Independent apparatus claims 25 and 29 have the same technical features of independent claim 1. Their subject-matter is, for the reasons explained above, not new (Article 33(1) and (2) PCT).

3.4 The additional features of dependent claims 2-6,9,11-15 are also known from D1 or D3. In particular:

- claims 2,3: see D1, paragraph [0029];
- claim 4: see D1, paragraphs [0005],[0029];

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- claim 5: see D1, paragraphs [0029],[0030];
- claim 6: see D1, paragraphs [0035]-[0036];
- claims 11,12: see D1, paragraphs [0035]-[0038];
- claims 13,14: see D1, paragraphs [0030],[0033]-[0035];
- claim 15: see D1, paragraph [0039];

The subject-matter of claims 2-6,11-15 is therefore not new (Article 33(1) and (2) PCT).

- 3.5 Dependent apparatus claims 26 and 30 have the same technical features of claims 1-6,11-15,25,29. Their subject-matter is, for the reasons explained above, not new (Article 33(1) and (2) PCT).
- 4 The present application does not meet the criteria of Article 33(1) PCT, because the subject-matter of claims 7-10,16-24,27,28,31-41 does not involve an inventive step in the sense of Article 33(3) PCT.
- 4.1 Using the wording of claim 17, document D1 discloses (the references in parentheses applying to this document):
- "A method for transmitting data from a mobile terminal to a radio access network of a mobile communication system (paragraph [0028]), the mobile terminal comprising a medium access control entity (paragraph [0030]), the method comprising the steps of:
establishing a radio bearer between the mobile terminal and the radio access network for transmitting said data via a transport channel (paragraph [0028]),
assigning a priority to the radio bearer (paragraphs [0029]-[0031]), and
transmitting said data based on the priority assigned to the radio bearer (paragraphs [0030],[0031])".
- Claim 17 differs from that known from document D1 only in that the priority assigned to the radio bearer, indicating one of a plurality of scheduling modes, is based on a flag.
- However, this feature has already been employed for the same purpose in a method to communicate prioritized traffic, see Document D2, column 4, lines 20-63; column 7, lines 45-67; column 8, line 65 - column 10, line 23. It would be obvious to the person skilled in the art, namely when the same result is to be achieved, to apply

these features with a corresponding effect to the method described in document D1, thereby arriving to the configuration of claim 17.

The subject-matter of claim 17 does therefore not involve an inventive step (Article 33(3) PCT).

- 4.2 Independent apparatus claims 27,31,33,38 and 40 have the same technical features of independent claim 17. Their subject-matter is, for the reasons explained above, not inventive (Article 33(3) PCT).
- 4.3 The additional features of dependent claims 7-10,16,23,24,18-24,28,32,34-37,39,41 are also known from D1 and D2, or obvious design features to which no inventive merit can be attributed. In particular:
 - claim 7: the mobile terminal is informed by the radio access network about the available priorities of a logical channel for each one of the scheduling modes. For the person skilled in the art this would mean a way to set, from the network side, which possible combinations of Transport Formats are allowed. This is cited in document D1 (paragraphs [0039]-[0041]);
 - claim 8: the available priorities are comprised within a "RB mapping info" information element. This feature is merely one of several straightforward possibilities from which the skilled person would select, in accordance with circumstances, without the exercise of inventive skill, in order to solve the problem posed;
 - claim 9: see D1, paragraph [0030];
 - claim 10: the radio bearer control message is a "radio bearer setup message" or a "radio bearer reconfiguration message". These features are merely two of several straightforward possibilities from which the skilled person would select, in accordance with circumstances, without the exercise of inventive skill, in order to solve the problem posed;
 - claims 16,23,24: these claims refer only to mere design options.
 - claims 18,19,34,36: see D1, paragraph [0029];
 - claim 20: see D1, paragraphs [0005],[0029];
 - claims 21,22,35,37: these claims refer only to mere design options;
 - claims 28,32,39 and 41 have the same technical features of claims 18-24.

The subject matter of claims 7-10,16,18-24,28,32,34-37,39,41 is not inventive (Article 33(1) and (3) PCT).